

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARTIS X. JOHNSON, a/k/a
Fa'dee Mulazim,

Petitioner,

v

ROBERT BROWN, JR.,

Respondent.

Case No. 1:87-cv-741

HON. JANET T. NEFF

OPINION AND ORDER

Petitioner filed three motions in this habeas corpus action, seeking a temporary restraining order (Dkt 144), a preliminary injunction (146), and an order to show cause (Dkt 147). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation recommending that this Court deny all three motions (Dkt 150). The matter is before the Court on Petitioner's objections to the Report and Recommendation (Dkt 151). Also before the Court is Petitioner's March 22, 2010 motion to expedite this Court's decision (Dkt 155). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and the pending motions.

Petitioner objects to the Magistrate Judge's conclusion that he may not seek relief in this lawsuit where the judgment is final and unappealable. According to Petitioner, the "September 7th, 1993, decision did not deny the Habeas Corpus on the merits." Petitioner is incorrect.

Petitioner filed this habeas corpus action in 1987 pursuant to 28 U.S.C. § 2254. After counsel was appointed and a second amended petition filed, the Magistrate Judge reviewed the second amended petition and the response thereto and issued a twenty-eight page Report and Recommendation, recommending that each of Petitioner's claims be denied "on its merits" (Dkt 120). On September 7, 1993, then United States District Judge David W. McKeague denied Petitioner's objections to the Report and Recommendation and adopted the Report and Recommendation as the Opinion of the Court (Dkt 126). The Court denied the petition "in its entirety on the merits" (*id.*).

Moreover, in December 1993, the United States Court of Appeals for the Sixth Circuit denied Petitioner a certificate of appealability, concluding that Petitioner had not presented any substantial reason warranting further appellate review. *In re Artis X. Johnson*, No. 93-2235. Finally, on September 14, 2009, this Court denied Petitioner's motion for relief from judgment and for leave to file a third amended petition (Dkts 142, 143). In sum, the Magistrate Judge properly concluded that Petitioner may not seek relief in this long-closed habeas corpus action.

Accordingly:

IT IS HEREBY ORDERED that Petitioner's objections (Dkt 151) are DENIED and the Report and Recommendation of the Magistrate Judge (Dkt 150) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Petitioner's motion for temporary restraining order (Dkt 144), motion for preliminary injunction (Dkt 146), and motion for order to show cause (Dkt 147) are DENIED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Petitioner's motion to expedite (Dkt 155) is DENIED as moot.

Date: May 18, 2010

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge